

R E M A R K S

The above amendment is submitted in response to the Examiner's Action, paper number 3. In that Action, the Examiner objected to certain claims as including improper Markush terminology and indefinite terminology. Newly presented claims 17-32 have corrected these items and are believed to overcome the Examiner's objection thereto.

The Examiner also rejected claims 1-6 as being obvious over Schmitt J. Claims 7-16 were rejected as being obvious over Schmitt and further in view of Roe and West.

Schmitt teaches a binder composition and process for a agglomerating particulate material such as finely divided metals and mineral ores. The agglomeration procedure necessarily includes the formation of balls which are later fired under high temperature for formation into pellets. Schmitt uses a combination of synthetic polymers water-soluble natural polymers or modified natural polymers in combination with a caustic such as sodium hydroxide. Agglomerates or balls are formed by this method. Although Schmitt states that combinations of natural and synthetic polymers may be used, the examples in this reference are drawn to individual polymers being used with the caustic. The caustic is employed generally to increase agglomeration. The success of the Schmitt method is measured by the strength of the pellets produced.

Roe describes an agglomeration composition for iron ore which employs the combination of a water and polymer emulsion, a polysaccharide, a water-soluble surfactant, and borax. Roe states that blends of dry acrylamide based polymers with starch do not

work. Column 6, line 65-68. Thus, Roe teaches directly away from the present invention.

West discloses a hydraulic binder which uses fibers in combination with a polymer and amine-formaldehyde condensate in a catalyst.

Applicant's claimed invention is drawn to a tackifier, which differs remarkably from the references cited taken alone or in combination. The agglomeration methods and compositions disclosed in Schmitt and Roe must be distinguished from tackification. Agglomeration concerns the formation of balls, and pellets. Tackification concerns the formation of a sticky compound which produces a matrix which may be employed as a palliative for particulate matter on a surface, such as dust, soil, straw, and the like. If an agglomeration compound were used to tackify, balls of material would be formed on the surface of the subject site. Such balls would be susceptible to movement on a slope through gravity, or by mechanical forces such as wind and rain. Tackifiers are meant to stay in place, and hold particulate matter to be resistant to such forces. In addition, agglomerated particulate matter on a surface would leave space between the balls which would then be subject to erosive action due to the elements. Needless to say, this is not a desirable result.

In addition, Schmitt describes the use of a nature, modified natural or synthetic polymeric base material in an agglomeration process which employs a caustic. Even if a tackifier were produced, which is not the case, the result would be a toxic material unsuitable for the tackifier claimed in the present

application. The present application is intended for use with living entities such as plants and animals. In fact, the tackifier of the present invention may be used to hydro-seed areas. The use of caustic would certainly kill those seeds if the Schmitt teachings were followed. In addition, there is no indication in Schmitt that cross-linking occurs between a natural, modified natural, and/or synthetic polymeric material. The caustic employed is intended to strengthen fired pellets thus preventing their cracking during shipping and further use. Applicant's cross-linking a necessary element to produce the tackifier matrix on a surface to stabilize the same.

The addition of Roe to Schmitt does not suggest that a cross-linked composition is produced between a natural organic material and a synthetic polymer. In fact, Roe states that acrylamide based polymers and starch do not work, prior noted. Thus, one following the Roe teachings would never combine natural and synthetic polymers with borax to produce a cross-linked tackifier. Moreover, Roe, again, focuses its teaching on a method and composition for agglomeration or the production of pellets for metal ores.

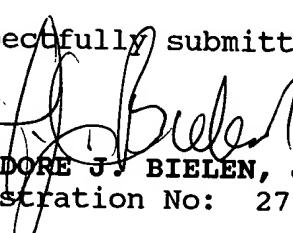
The addition of West to the teachings of Schmitt and Roe, as well as the other patents cited, only shows the addition of fiber to a tackifier binder composition. Again, the use of a natural organic material and synthetic polymer, which is cross-linked by an agent, is not described by West.

In summary, Applicant has developed a novel tackifier composition which includes the combination of synthetic polymeric

and natural organic with an agent for cross-linking the same. The composition is usable as a tackifier or binder to prevent soil erosion, migration of particulate matter, and may be used in hydro-seeding, and the like. The composition is compatible with living matter since it exhibits low toxicity and may be re-solublized after initial drying. These results are not obtainable by any of the prior art references taken alone or in combination.

It is believed that the application as amended is now in condition for allowance and the passing to issue of the application at an early date is earnestly solicited.

Respectfully submitted,


THEODORE J.J. BIELEN, JR.
Registration No: 27,420

TJB:jjl

Date: July 30, 2002

BIELEN, LAMPE & THOEMING
1990 N. California Boulevard, Suite 720
Walnut Creek, California 94596

Tel: (925) 937-1515

Fax: (925) 937-1529